

ORIGINAL

OPEN MEETING

MEMORANDUM



0000153218

RECEIVED

2014 MAY -2 P 3: 57

AZ CORP COMMISSION  
DOCKET CONTROL

TO: THE COMMISSION

DOCKETED

FROM: Utilities Division

MAY 02 2014

DATE: May 2, 2014

DOCKETED BY

RE: MOTION TO AMEND DECISION NO. 71944 PURSUANT TO A.R.S. § 40-252  
FILED BY BENSCH RANCH UTILITIES, LLC (DOCKET NO. SW-04026A-01-0499)

INTRODUCTION

On March 12, 2014, the Arizona Corporation Commission ("ACC" or "Commission") voted at a Commission Staff Meeting to reopen Decision No. 71944 (issued November 21, 2010) pursuant to A.R.S. § 40-252 to consider modifying the requirement that Bensch Ranch Utilities, LLC ("Bensch Ranch" or "Company") file a rate case by November 30, 2010.

This memorandum provides the Commission with Staff's recommendation regarding Bensch Ranch's Motion to Amend Decision No. 71944 pursuant to A.R.S. § 40-252 filed on February 3, 2014.

BACKGROUND

On June 31, 2001, Bensch Ranch filed with the Commission an application for a Certificate of Convenience and Necessity ("CC&N") to provide wastewater service to two subdivisions in Yavapai County, Arizona.

On August 10, 2004, the Commission issued Decision No. 67180, conditionally granting the Company's application. Decision No. 67180 required the Company to make annual filings reporting, among other things, whether it had retained Mr. Lester Smith as an employee. The Decision also required the Company to file a rate case "no later than three months following the fifth anniversary of the date it begins providing service to its first customer." On November 21, 2010, the ACC issued Decision No. 71944 amending Decision No. 67180 to remove certain reporting requirements based on the death of the Lester Smith and to modify the initial rate case filing requirement, requiring it to be filed no later than November 30, 2010.

The Company serves two residential developments known as Bensch Ranch Estates and Spring Valley, both located within the community of Mayer in Yavapai County. At full build out, Bensch Ranch Estates will consist of 411 residential units, and Spring Valley is planned to consist of 50 residential units, 2 commercial properties, a small hotel and a convenience store.

Since the Company was first granted its CC&N, it has only acquired 23 residential customers. According to the Company, the lack of customers and low revenue make operations

difficult, but Bensch Ranch has continued to provide the capital necessary for provision of service to the 23 customers at an average loss of \$34,000 annually. The Company does not believe that a rate application appears warranted or in the public interest at this time due to a number of issues.

After conducting its own internal rate review, the Company determined that any rate case would result in an approximately 600 percent increase in rates in order to cover annual operating expenses. It is the Company's contention that such a rate increase would clearly cause rate shock to the existing 23 customers, and not be in the public interest. Additionally, the Company felt that a proceeding at this time to determine rates for 23 customers would be taxing on both the Company and Commission Staff. Based on this rationale, the Company took the position that the avoidance of a rate proceeding at this time would benefit the public interest, save time and effort for the Company and Staff, and forgo the impact of rate shock to existing customers.

#### **REQUEST OF COMPANY TO AMEND DECISION NO. 71944**

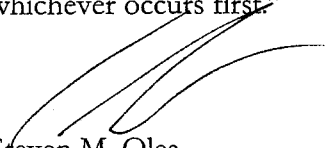
In its most recent A.R.S. § 40-252 filing, the Company is specifically requesting the Commission to amend Decision No. 71944 to replace the previous rate case filing language on page 5 with the following ordering paragraph:

"IT IS FURTHER ORDERED that Bensch Ranch shall file a rate application within ninety (90) days of extending service to its 100<sup>th</sup> customer."

#### **STAFF RECOMMENDATION**

Based on Staff's review of the information submitted by the Company, Staff believes that it is reasonable and that it is in the public interest to amend Decision No. 71944 and replace the rate case filing requirement in that Decision on page 5, lines 4 and 5, with the following language:

"IT IS FURTHER ORDERED that Bensch Ranch Utilities shall file a rate case application by June 30, 2017, using a 2016 test year, or within 90 days of extending service to its 100<sup>th</sup> customer, whichever occurs first."



Steven M. Olea  
Director  
Utilities Division

SMO:LJL:VW:red\RRM

ORIGINATOR: Vicki Wallace

1 **BEFORE THE ARIZONA CORPORATION COMMISSION**

2 BOB STUMP

Chairman

3 GARY PIERCE

Commissioner

4 BRENDA BURNS

Commissioner

5 BOB BURNS

Commissioner

6 SUSAN BITTER SMITH

Commissioner

7  
8 IN THE MATTER OF THE APPLICATION )  
9 OF BENSCH RANCH UTILITIES FOR A )  
10 CERTIFICATE OF CONVENIENCE AND )  
11 NECESSITY TO PROVIDE SEWER )  
12 SERVICE )

DOCKET NO. SW-04026A-01-0499

DECISION NO. \_\_\_\_\_

ORDER AMENDING

DECISION NO. 71944

13 Open Meeting  
14 May 13 and 14, 2014  
15 Phoenix, Arizona

16 BY THE COMMISSION:

17 Having considering the matter and voting to reopen Decision No. 71944 (issued November  
18 21, 2010) pursuant to A.R.S. § 40-252 to consider modifying the requirement that Bensch Ranch  
19 Utilities, LLC ("Bensch Ranch" or "Company") file a rate case by November 30, 2010, the Arizona  
20 Corporation Commission ("ACC" or "Commission") finds, concludes, and orders that:

21 FINDINGS OF FACT

22 1. On June 31, 2001, Bensch Ranch filed with the Commission an application for a  
23 Certificate of Convenience and Necessity ("CC&N") to provide wastewater service to two  
subdivisions in Yavapai County, Arizona.

24 2. On August 10, 2004, the Commission issued Decision No. 67180, conditionally  
25 granting the Company's application. Decision No. 67180 required the Company to make annual  
26 filings reporting, among other things, whether it had retained Mr. Lester Smith as an employee. The  
27 Decision also required the Company to file a rate case "no later than three months following the fifth  
28 anniversary of the date it begins providing service to its first customer." On November 21, 2010, the

1 ACC issued Decision No. 71944 amending Decision No. 67180 to remove certain reporting  
2 requirements based on the death of Lester Smith and to modify the initial rate case filing requirement,  
3 requiring it to be filed no later than November 30, 2010.

4 3. On February 3, 2014, Bensch Ranch filed a Motion to Amend Decision No. 71944  
5 Pursuant to A.R.S. § 40-252. The Company asserted conditions existed which necessitated the filing  
6 of the extension.

7 4. Of the 452 residential units and 2 commercial properties initially planned at full  
8 buildout, the Company had only acquired 23 residential customers. According to the Company, the  
9 lack of customers and low revenue made operations difficult; but Bensch Ranch continued to provide  
10 the capital necessary for provision of service to the 23 customers at an average loss of \$34,000  
11 annually.

12 5. After conducting its own internal rate review, the Company estimated that any rate  
13 case would result in an approximately 600 percent increase. It was the Company's contention that any  
14 rate case would clearly cause rate shock to the existing 23 customers, and not be in the public interest.  
15 Additionally, the Company felt that a proceeding at this time to determine rates for only 23 customers  
16 would be burdensome to the Commission Staff and the Company, not to mention increase rate case  
17 expense to those 23 customers.

18 6. Based on this rationale, the Company believes that the avoidance of such a rate  
19 proceeding at this time would benefit the public interest, save time and effort for the Company and  
20 Staff, and forgo the impact of rate shock to existing customers. Staff felt the rationale stated above  
21 was sufficient to approve the motion for extension.

22 7. We agree with Staff that due to the circumstances described by the Company that the  
23 rate case filing language should be modified.

24 8. Decision No. 71944 requires the rate case application to be filed no later than  
25 November 20, 2010. The Compliance Section of the Commission's Utilities Division reports that the  
26 Company is otherwise in compliance with Utility Division filing requirements.

27 9. The Company should be ordered to file a rate case application by June 30, 2017, using  
28 a 2016 test year, or within 90 days of extending service to its 100<sup>th</sup> customer, whichever occurs first.

CONCLUSIONS OF LAW

1  
2 1. Bensch Ranch is a public service corporation within the meaning of Article XV of the  
3 Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

4 2. The Commission has jurisdiction over Bensch Ranch and the subject matter of the  
5 application and motion thereof.

6 3. It is reasonable and in the public interest to amend Decision No. 71944 to extend the  
7 deadline for the Company to file the required rate case by June 30, 2017, or within 90 days of  
8 extending service to its 100<sup>th</sup> customer, whichever comes first.

ORDER

9  
10 IT IS THEREFORE ORDERED that Decision No. 71944 is hereby amended to reflect that  
11 Bensch Ranch Utilities, LLC shall file a rate case application by June 30, 2017, using a test year of  
12 2016, or within 90 days of extending service to its 100<sup>th</sup> customer, whichever comes first.

13 IT IS FURTHER ORDERED that if Bensch Ranch Utilities, LLC believes that the filing of a  
14 rate case is not in the public interest at the time the first condition above is met, it may file for an  
15 extension of time at that time.

16 ...

17 ...

18 ...

19 ...

20 ...

21 ...

22 ...

23 ...

24 ...

25 ...

26 ...

27 ...

28 ...

1 IT IS FURTHER ORDERED that all other provisions of Decision No. 71944 remain in  
2 effect.

3 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

4  
5 **BY THE ORDER OF THE ARIZONA CORPORATION COMMISSION**

6  
7 \_\_\_\_\_  
CHAIRMAN

COMMISSIONER

8  
9  
10 \_\_\_\_\_  
COMMISSIONER

COMMISSIONER

COMMISSIONER

11 IN WITNESS WHEREOF, I, JODI JERICH, Executive  
12 Director of the Arizona Corporation Commission, have  
13 hereunto, set my hand and caused the official seal of this  
14 Commission to be affixed at the Capitol, in the City of  
Phoenix, this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

15 \_\_\_\_\_  
16 JODI JERICH  
EXECUTIVE DIRECTOR

17  
18 DISSENT: \_\_\_\_\_

19  
20 DISSENT: \_\_\_\_\_

21 SMO:LJL:VW:red\RRM  
22  
23  
24  
25  
26  
27  
28

1 SERVICE LIST FOR: BENSCH RANCH UTILITIES, LLC  
2 DOCKET NO. SW-04026A-01-0499

3 Mr. Jason Williamson  
4 Vice President  
5 7581 East Academy Blvd.  
6 Suite 229  
7 Denver, Colorado 80230

8 Mr. Jay Shapiro  
9 Fennemore Craig, PC  
10 2394 East Camelback Road  
11 Suite 600  
12 Phoenix, Arizona 85016

13 Mr. Steven M. Olea  
14 Director, Utilities Division  
15 Arizona Corporation Commission  
16 1200 West Washington Street  
17 Phoenix, Arizona 85007

18 Ms. Janice M. Alward  
19 Chief Counsel, Legal Division  
20 Arizona Corporation Commission  
21 1200 West Washington Street  
22 Phoenix, Arizona 85007  
23  
24  
25  
26  
27  
28